



BOARD MEMBER ORIENTATION & TRAINING MANUAL

A publication of the
BUREAU OF OCCUPATIONAL LICENSES
STATE OF IDAHO

(revised 06-16-04)

CONTENTS

Introduction - Greetings.....	Section 1
History and Purpose of Occupational & Professional Licensing.....	Section 2
Organization of the Bureau of Occupational Licenses.....	Section 3
Bureau Services.....	Section 4
Role of a Board Member.....	Section 5
Liabilities of Board Members.....	Sections 6
Minutes.....	Section 7
Parliamentary Procedure at Board Meetings.....	Section 8
Licensure Examinations.....	Section 9
Laws and Rules.....	Section 10
Board Member Expense - Reimbursement.....	Section 11
Bureau Complaint Procedures.....	Section 12
Administrative Rulemaking.....	Section 13
Administrative Bill.....	Section 14
How a Bill Becomes Law in the Idaho Legislature.....	Section 15
Information Relating to the Idaho Legislature.....	Section 16
A Board's Self-Assessment Checklist.....	Section 17
Your Laws & Rules.....	Section 18
Bureau Laws & Rules.....	Section 19

Greetings from the Bureau of Occupational Licenses!

Welcome from the staff at the Bureau of Occupational Licenses. We are here to perform the many services necessary for the operation of your Board. Below is a brief outline of the relationship between the Bureau and the Boards and a description of the duties we share.

The Idaho Legislature has decreed that persons practicing in your profession be licensed in order to protect the health, safety and welfare of Idaho's public. You are an important part of a regulatory Board that is made up of members who have been appointed by the Governor. Each member serves at the pleasure of the Governor and represents the public of the state. The Board is the regulatory body charged with enforcing the laws and rules that govern the practice of your profession within Idaho's borders.

The Board will make decisions about the qualifications for the licensure of applicants and will authorize the issuance of licenses to qualified applicants. The Board will determine whether licenses will be revoked or otherwise sanctioned when violations of the law or rules have occurred. The Board will establish fees in accordance with the law, and then collect those fees, which will be used to pay the expenses of conducting the business of the Board. These costs include the reimbursement of Bureau expenses incurred in the day-to-day operations of the Bureau and the Board.

The collection of fees does not, however, ensure that those funds are available for spending. The legislature must authorize, through the appropriation process, the spending of funds for all state agencies. The resulting appropriation is what gives the Bureau its spending authority. The money collected by the Boards belongs to the state, and neither the Boards nor the Bureau have access to the funds outside of the

appropriation process.

The Bureau of Occupational Licenses is a service provider for eighteen state Boards. The Bureau is the official agent of those Boards and the Bureau Chief is the official keeper of the Board's records. Bureau employees carry out the instructions of the Boards with respect to licensing and examination procedures. The Bureau Investigative Unit investigates complaints and conducts facility inspections on behalf of Boards.

Neither the Boards nor the Bureau are related to, nor do they act on behalf of, any of the professional organizations or associations in this state. While many of these organizations offer valuable support to licensees, the Boards are the sole voice of the law and the rules with respect to the practice of their respective professions. Board members are mandated to serve the public good and not as advocates for other professional groups.

The following pages will more completely explain the relationship between the Boards and the Bureau of Occupational Licenses. The Bureau staff is dedicated to providing competent, courteous, and creative service to the Boards and the public. We strive to exceed the expectations of those we serve. If we can answer any questions or help in some other way, please don't hesitate to call.

Bureau Administrators

HISTORY & PURPOSE OF PROFESSIONAL LICENSING

Occupational licensure has a long history. Modern day licensure has its roots in workers' guilds that can be traced back to the tenth century in England. The first modern effort to regulate occupations and professions was Virginia's medical practice act in 1639. In the late 1800's, state licensure activity began in earnest, and by 1900, a majority of the states had licensed attorneys, dentists, pharmacists, physicians and teachers. Between 1900 and 1960, most states also licensed an additional twenty occupations and professions including accountants, nurses, real estate brokers, barbers, hairdressers, chiropractors and funeral directors. Today, over 800 occupations and professions are licensed by one or more states.

Occupational licensing is an exercise of the state's inherent police power to protect the health, safety and welfare of its citizens. Generally accepted criteria for granting licensure include: (1) unqualified practice poses a serious risk to a consumer's life, health, safety or economic well-being; (2) such risks are likely to occur; (3) the public cannot accurately judge a practitioner's qualifications; and (4) benefits to the public clearly outweigh potential harmful effects of licensure (such as a decrease in the supply of practitioners). Failure to meet these criteria, in general, indicates that licensure is not justified, or that some alternative form of regulation such as registration or certification may be appropriate.

Proponents of licensure argue that the purpose of licensure is to raise standards of practice, ensure quality service, and establish accepted codes of ethical behavior. In the last two decades there has been a growing awareness of licensure's responsibility to promote continuing professional education and competence, and to enforce licensure laws against fraudulent, incompetent, and unethical behavior.

As a Board member, you have been appointed by the Governor to fulfill one of the most important responsibilities government can provide -- **to protect the health,**

safety and welfare of the people of Idaho. As a member of the Board, you bring to licensing your education, experience, and continuing professional conduct. You will be asked to serve as a judge, a prosecutor, an examiner, a rule-maker and a diplomat. You are an official of the State of Idaho, with all the dignity and liability that goes with that office. It is not an easy responsibility to fulfill.

What follows is a basic introduction to the Board licensing function and your role as a member of a Board. Every attempt has been made to provide answers to questions you may have about the Board and your relationship to it. There will be times when problems arise that are not covered by this manual. When that happens you should not hesitate to call the Bureau for help.

ORGANIZATION OF THE BUREAU OF OCCUPATIONAL LICENSES

Major state government reorganization in 1974 created the Department of Self-Governing Agencies and the Bureau of Occupational Licenses. The individual Boards are created within a specific chapter of Title 54, Idaho Code, and provide that the Governor shall appoint members to the Boards. Operation of the Bureau and Boards is provided solely through funds generated through the licensing process. The Board's powers and duties are basically three fold:

1. The development of minimum competency standards, and the examination and licensing of applicants.
2. The promulgation of rules that are not inconsistent with the law, and necessary to implement and enforce the licensing statute.
3. The suspension, revocation, or such other sanction of licenses as may be appropriate for violation of the licensing statutes.

The Bureau was created under Chapter 26, Title 67, Idaho Code. That statute also established the position of Bureau chief, who is appointed by, and serves at the pleasure of, the governor. The Idaho Personnel Commission has further defined that position as the executive director to the Boards. The Bureau chief is charged with the administration of the Bureau and is authorized to hire such personnel as is necessary to carry out the duties of the Bureau. A business operations officer serves as deputy chief and supervises the overall operation of the Bureau office. The Bureau is authorized by the statute to provide support services to the Boards through written agreement.

Each Board is assigned a Bureau administrative assistant or an office specialist (secretary), to carry out those day-to-day duties necessary for the Board's operation.

The secretary is responsible for the Board's filing system, correspondence, application and examination records, and meeting minutes and arrangements. The secretary also provides licensure information to applicants, licensees, and the public as necessary. Your Board secretary is a valuable resource, with the knowledge, expertise, and experience to deal with your individual Board's issues.

The Bureau Customer Service Representative is on the "front line" of Bureau operations. The person in this position monitors the phone and e-mail systems, maintains Board member records, and assists in record keeping, filing, renewal services, and other duties as may be assigned. Though the customer service representative may provide basic licensure information, their responsibility is to determine the scope of information requests and route those requests to the appropriate staff member. Temporary employees are also utilized as necessary to maintain work flow and for special projects.

The investigative unit incorporates a chief investigator, five field investigators, and an Administrative Assistant. The Chief investigator is responsible for the coordination of investigations and the inspection program, making assignments, and monitoring the activities of the investigators. The Chief investigator works under the direction of the Bureau chief. The five investigators are based in the field and operate from their residences. One investigator is based in North Idaho (Area I), two in Southwest Idaho (Area II), one in South-central Idaho (Area III), and one in Eastern Idaho (Area IV). Investigative services are provided to all 18 licensure Boards currently under contract with the Bureau. Inspection services are currently provided for the barber, cosmetology, denturistry, and mortician Boards.

The accounting unit consists of a financial specialist and a financial support technician. The Bureau operates solely on dedicated funds and no monies are appropriated from the state's general fund. The major source of funding for the Bureau is licensing and testing fees from the individual Boards. Though the Bureau has a

single budget for its operation, an internal accounting system helps to insure that each Board maintains a "self-supporting" status. The pool of Boards utilizing one fund allows each Board to continue to function through periods of adverse revenue conditions until such time as necessary adjustments in fees provide for a return to a self-supporting operation.

We hope the above information is beneficial to you as a Board member. The Bureau's mission is to provide you with the finest and most efficient service possible. The Bureau's goal is to do whatever is necessary to help you fulfill your responsibilities as a Board member in implementing your policies and directions. Your position as a Board member is viewed with respect and appreciation for all that you do to further the licensure mandate of "protecting the health, safety, and welfare of the general public" of Idaho. Best wishes for a successful and rewarding experience throughout your term on the Board.

Organizational Structure

Present members of the Bureau staff are as follows:

Bureau Chief -	Rayola Jacobsen
Deputy Bureau Chief -	Budd Hetrick
Chief Investigator -	John Kersey
Investigators –	Larry Klump
	Cindy Rowland
	Michelle Bissey
	Penny Ragland
	Stuart Propsom
Board Counsel –	Naylor, Hales & McCreedy, P.A.
Deputy Attorney Generals -	Stephanie Guyon
	Ken Stringfield
Administrative Assistant II -	Cherie Simpson
Administrative Assistant I -	Marcie McGinty
Office Specialists –	Janice Wiedrick
	Marilyn London
	Kim Aksamit
	Sandee Hitesman
	Patti Fanckboner
Financial Specialist -	Bill Kichok
Financial Support Technician -	Carl Keele
Customer Service Representative –	Kevin Ealey

([See organization chart](#))

BUREAU SERVICES

Applications

The Bureau acts as the initial point of contact for those applying for licensure in Idaho. The Bureau receives inquiries; disseminates the appropriate information and forms; receives the completed forms and required fees; and reviews the required education, experience, or examination credentials. Bureau personnel answer routine questions on original licensing and the renewal of licenses.

Credential Verification

The Bureau may, in addition to receiving applications and evidence of qualification, verify that the credentials, which have been submitted, do in fact meet the requirements set forth by the Board. This process may involve correspondence with other states or with national professional organizations.

Examinations

Bureau personnel assist in the examination process by scheduling, monitoring, maintaining security. Scheduling examinations may include arranging for the exam site; preparing and sending out announcements of examination dates, times, and locations; communicating with national organizations who prepare, provide, and correct the examinations; receiving, sorting and transporting the examination booklets; and taking care of the completed examinations.

Advertising

The Bureau prepares and publishes any required advertising in connection with the announcements and public notices of special meetings, hearings, or other Board functions.

Issuing Licenses, Certificates, License Renewals

After an applicant has met all of the requirements for licensure, and upon authorization by the Board, a license to practice in the state is issued. The Bureau also

issues wall certificates, signed by the Board members, to new licensees.

The Bureau has established an automated procedure for license renewals, and all licenses expire prior to the licensee's birth date. Upon receipt of a renewal application, submitted fees are processed, the continuing education information is verified (if required), any restrictions or Board sanctions are noted, and the Bureau issues a current license.

Accounting and Budgeting

Accounting personnel track the receipts and disbursements relating to your Board and the Bureau as a whole. The Bureau operates from a budget that is established annually. The accounting unit builds the Bureau budget based on each Boards needs during the past year and the expected needs for the year in question.

The Bureau receives an appropriation from the legislature for the upcoming fiscal year. This appropriation is the legislature's "permission" to spend funds. The appropriation is broken down internally to reflect each Board's piece of the budget.

The accountant carefully monitors each Board's progress during the year. If a Board is accumulating a larger than needed cash reserve, it will be so informed. Conversely, if a Board is leaning toward a deficit, it will be cautioned.

At each Board meeting, an accounting of expenditures year-to-date is presented. The accountant is also available to explain the budget, answer questions, and offer advice as to how to correct trends before they develop into problems.

Arranging for Board Meetings

As a general rule, the Boards meet in Boise where the records and office staff are close at hand. The office will arrange the meeting, provide the appropriate public notice, and let all the Board members know when the meeting will be held. On occasion, Boards hold meetings in other parts of the state. Since such meetings often require additional expenditures, discussion with the Bureau Chief and a review of your Board's financial situation is recommended well in advance.

We recognize that beyond these categories of administrative services, special needs for a Board may exist that require special assistance from the Bureau. This list is

by no means comprehensive, and you are encouraged to contact the Bureau Chief or Deputy Chief to discuss any additional services you may require.

Legal Services

Each Board requires legal services for two purposes, general counsel and prosecutorial. General counsel addresses the continual need for review of Board policies, procedures, and current practices. The Boards also seek advise in licensing and discipline matters and for interpretation of the laws and rules governing licensure. The prosecutorial function involves serving as the State's advocate in hearings and other disciplinary matters. The prosecutor presents the State's case against licensees allowing the Board to make an informed decision.

The administrative attorney

Legal counsel for the Boards is currently obtained through Bureau contract with a private local firm. An administrative attorney from that firm is assigned to each of the Boards and has the sole responsibility of advising the Board. This attorney is always available to the Board for consultation and advice on matters of Board interest.

There is no question that licensing is becoming increasingly litigious. Few formal hearings are held where an attorney does not accompany the applicant or licensee. Though most Boards are justifiably uncomfortable making some decisions without the advise of their attorney, it is critically important to remember that an attorney's judgment should never be used as a substitute for the Board's lawful decision making responsibilities.

Feel free to consult your attorney for help in interpreting the law. You may ask about the resulting liabilities of certain Board actions concerning a licensee or applicant. You may even ask your attorney to draft proposed policy, rules, or formal decisions under consideration by the Board. Resist the temptation, however, to ask the attorney's personal judgment on purely factual matters, or matters where you need to apply facts to law. Final decisions are the Board's responsibility, and should not be delegated.

You may disagree with your attorney and act against legal advise if, in the Board’s best judgment, such action seems necessary. The Board may take such action in spite of the advise of counsel, so long as the potential liability for such an act is understood.

The attorney will be available to the Board during its meetings. When a Board enters executive session, the attorney may be included, at the discretion of the Board. It is seldom necessary for the attorney to be present during entire Board meetings, though it may be appropriate during hearings. Try to arrange your meeting agendas so that items for which the attorney's help may be needed are clustered. The attorney may then return to other duties, but remain available should the Board need counsel.

The prosecuting attorney

Prosecutorial services for the Boards are currently provided through a Bureau agreement with Idaho's Office of the Attorney General. Deputy attorney generals are assigned to the Bureau and have the responsibility of reviewing complaints and pursuing the appropriate discipline on behalf of the state.

When a complaint has been received and investigated, by the Bureau on the Boards behalf, the deputy attorney general will review the results of the investigation, make recommendations concerning resolution of the complaint and, if necessary, prosecute the case. It is important to remember, the prosecutor is not the Board's attorney. When questions arise concerning complaints and disciplinary matters, which require legal advise, the Board should consult their administrative attorney.

The deputy attorney general maintains close contact with the investigative unit and reviews all investigative files. It is the prosecutor's duty to present the state's case to the Board during administrative hearings and other times as may be appropriate. Just as with the administrative attorney, the Board should resist the temptation to ask the prosecutor to make determinations for them. Final decisions in disciplinary matters are the Boards responsibility, and should not be delegated.

You may disagree with your attorney and act against legal advise if, in the Boards best judgment, an action seems necessary. The Board may take such action in spite of the advise of counsel, so long as the potential liability for such an act is understood. The deputy attorney general should be treated with the same deference you would give the licensee's attorney.

ROLE OF A BOARD MEMBER

Q. What are my responsibilities as a Board member?

A. You have a responsibility to several groups.

- To the general public. Consumers expect that licensees will be qualified to perform properly and safely. They expect a fair method of settling disputes that may arise with a licensed practitioner. They have a right to know what's going on within the Board.
- To potential licensees. A person who wishes to earn his/her living in an occupation should not be kept out unreasonably. That person should have easy access to all information about entering the profession, including testing and/or transferring a license to or from another state.
- To other Board members. You have a responsibility to listen to them and to consider their views and contributions. You are responsible for helping to determine good policy and helpful procedures, for contributing to fair determination of problems and for helping the Board to operate most effectively and efficiently.

Q. What does it mean to "serve in the interest of consumers"?

A. A good starting point is to turn to the "Consumer Bill of Rights", as stated by President Kennedy in 1960. He named four rights:

1 - the right to safety--to be protected against the marketing of products and services that are hazardous to health or to life.

2 - the right to be informed--to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts needed to make informed choices.

3 - the right to choose--to have available a variety of products and services at competitive prices.

4 - the right to be heard--to be assured that consumer interests will receive full and sympathetic consideration in making government policy, both through laws passed by legislatures and through regulations passed by administrative agencies.

In 1975, President Ford added a fifth consumer right: the right to education. This means consumers have the right to programs and information that help consumers make better marketplace decisions.

Many consumer leaders add a sixth right to this list: the right to redress--to work with established mechanisms to have problems corrected, and to receive compensation for poor service or for products which do not function properly.

Board members should keep these consumer rights in mind when making Board decisions. **Working in the public interest means looking at issues from the consumer's point of view, rather than that of the profession. The Board should consider what impact their decisions will have on the consumers of the service, rather than the licensed professionals.**

Board members have a duty to examine the Board's procedures and decisions. Board action should encourage openness and accountability, increase the public's safety, and not restrict choices available to consumers. It also means being aware of the dangers of over-regulating a profession, and of the impact of licensing on the practitioner's fees. Useful consumer information about the profession and how consumers can lodge complaints and seek restitution should be published and made available.

Revoking a license is most often not a sufficient resolution to a consumer's problem. An aggrieved consumer needs and deserves more assistance from the Board, such as a suggestion of alternative avenues that might provide satisfactory resolution.

Some specific suggestions are: the Consumer Protection Division or county offices of consumer affairs, Legal Aid (for consumers with low income), or legal action through Small Claims Court or other means.

Q. What is "the public interest"?

A. People often equate "the consumer interest" with the public interest, but there is a difference. Every Board has its reason for being: "To protect the health, safety, and welfare of the public". Therefore, all Board members have as their primary goal the public's interest. A public member has the responsibility of being especially sensitive to consumer welfare. Just as practitioner groups, such as professional associations, are a special interest, the consumer perspective is a special interest that must be considered when a Board makes decisions.

Q. What are the requirements for service on licensing Boards?

A. An effective Board member will exhibit:

- A demonstrated interest in public service.
- Common sense and a willingness to ask questions. Do the policies, procedures, and decisions of the Board seem sensible? If not, say so and ask for clarification. You are responsible for what goes on with your Board. If you are not sure about something and you do not ask--you are not being responsible.
- A commitment to attendance. Consistent attendance is essential to keeping informed about what is going on and to providing direction and support. An individual who accepts an appointment to a Board, and does not take seriously the duty to be there regularly and actively, does a disservice to the Board and to the public he is supposed to represent.
- Assertiveness. Respect your own rights and needs as well as those of others.
- A willingness to become informed about the Board structure and resources. Find out how the department and the Attorney General's Office works in relation to your Board and investigate other available resources.

Q. How can a Board member effectively participate in Board work?

A. Effective Board members have these characteristics in common:

- They are able to work with a group to make decisions.
- They understand and follow democratic processes.
- They are willing to devote time and effort to the work of the Board.
- They work to find alternative solutions to problems whenever necessary.
- They have good communication skills.
- They recognize that the goal of the Board is the service and protection of the public.
- They are aware that authority is granted by the law to the Board as a whole, not to any member individually, and can only be used in open meeting or executive session by vote of the majority of Board members.
- They avoid becoming involved in the daily functions of staff.
- They delay making judgments until adequate evidence is in and has been fully discussed.
- They don't let personal feelings toward others affect their decisions.

Q. What are the Board member's responsibilities about serving as a representative of the Board?

A. Remember:

- All inquiries regarding matters within the Board's jurisdiction should be directed to the Bureau so that they can be brought to the attention of the Board at a duly constituted meeting.
- A Board member should not release the details of Board activity unless and until they become part of the official public record. Discussions during executive sessions of the Board are not part of the public record. Any disclosure of information that is not public record should be made only after consultation with legal counsel.

- Board members are prohibited from conducting private meetings outside of full Board meetings. Board members should never discuss a licensee, an applicant, a complaint, or a disciplinary action, except at a Board meeting or in the presence of legal counsel.
- Board members should remember that they are seen as representatives of the Board when they appear at industry or professional gatherings. They must not speak for, or appear to speak for, the Board unless specifically authorized by the Bureau or Board to do so.

LIABILITIES OF BOARD MEMBERS

The laws and rules of the Board are the best guides to your responsibilities and liabilities as a Board member. The law on sovereign immunity, the shield that has traditionally saved public officials from personal liability for good faith errors, is rapidly changing. Increasingly, the courts are pursuing public officials for failing to satisfy the requirements of due process, equal protection and civil rights. For that reason, you should be extremely careful to limit your liability by assuring yourself of the legal grounds for every action you take as a Board member.

The best advice is to avoid acting individually. You are a member of a public body. The law provides certain protections for you in that capacity, including representation by legal counsel. When you act alone, or without the Board's knowledge or sanction, you risk forfeiture of that protection. When you are conducting any Board business outside of a regular Board meeting (duly noticed and accessible to the public), make sure you have full authority to do so, and that said authority is reflected in the Board minutes. Bring difficult or troublesome questions back to the Board, rather than making the judgement individually.

Clearly the greatest liability for error is that the courts will not respect your actions and decisions. Licensing and discipline are meaningless if everyone's hard work is reversed on appeal. One way to protect your work is to remain sensitive to charges of bias or prejudice. You should be vigilant in remaining as impartial as possible toward complaints, respondents, and applicants for licensure. The best policy is to step aside in any case involving a family member or friend or a present or former business associate. Be particularly careful about talking to parties before their cases can be heard and decided by the full Board.

Most of all, become familiar with all of the law and rules, and do not stray from the direction of that authority. Rather than take any unnecessary risk, always seek legal advice from your Board attorney.

**TITLE 6
CHAPTER 9
IDAHO CODE**

TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES

6-904B. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, shall not be liable for any claim which

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.
2. Arises out of the cancellation or rescission, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.
3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.
4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.
5. Arises out of any act or omission providing or failing to provide medical care to a prisoner, inmate or person in the custody of any city, county or state jail, detention center or correctional facility.
6. Arises out of a decision of the state commission of pardons and parole or its executive director when carrying out the business of the commission.

MINUTES

The law requires that all Boards shall keep written minutes of all of their public meetings. A full transcript or recording of meetings, however, is not required. All minutes must be available to the public within a "reasonable" time and must include the following:

1. The date, time and place of the meeting.
2. The members of the Board recorded as either present or absent.
3. The substance of all matters proposed, discussed or decided and the results of all votes (and on request by a member of a Board, the vote of each member, by name). Minutes of executive sessions may be limited to a statement of the matters addressed.
4. All motions, resolutions, orders, or ordinances proposed and their disposition.
5. Any other information that any member of the Board requests to be included or reflected in the minutes.

The minutes are the official record of the Board's action. They are a public record and shall be available within a reasonable time after the meeting. The court may also subpoena minutes as evidence of a Board's intentions and actions.

PARLIAMENTARY PROCEDURE AT BOARD MEETINGS

Board work is inherently informal, but there are certain proprieties that ought to be followed for even the most relaxed of settings. A close reading of Robert's Rules of Order ought to be mandatory for every Board chairman, vice-chairman, and secretary.

Some basic procedures for all Board meetings should include the following:

- At the beginning of each meeting the chairman should call the meeting to order.
- The chairman should establish that a quorum is present, since no Board can take decisive action without a quorum. A majority of the Board members constitute a quorum.
- The chairman should call for approval of the minutes of the last Board meeting(s). The minutes may be amended if necessary, and approved by a motion, second and vote of the Board. The chairman should never make a motion or second it.
- Following the agenda item by item is the general rule. The chairman might take a minute or two to consider whether the agenda is appropriately organized, and to make last minute adjustments as needed. The chairman may at this point ask members of the public to raise issues for discussion, and assign those issues a place on the agenda. NOTE: there is no requirement that non-members participate in or be recognized at a Board meeting. That decision is for the chairman to make. The chairman may rule non-members in or out of order. Deciding when to recess for breaks and meals is left to the chairman. Unfinished business should precede new business, and the last item is usually the scheduling of the next meeting.
- Following the conclusion of business, a motion to adjourn should be made, with a second, and the chairman declaring the meeting adjourned.

PARLIAMENTARY PROCEDURE:

ROBERT'S RULES OF ORDER

Based on Robert's Rules of Order (1977 Edition)

Developed as a simplified guide for BOARD MEETINGS

A POSTSCRIPT TO THE PRESIDING OFFICER:

The rules of parliamentary procedure are meant to help, not hinder. Applied with common sense, they should not frustrate the meeting or entangle it in red tape. Retain control at all times, give clear explanations, and keep things as simple as possible. Good advice from the chair as to the wording of motions and the best way to proceed will avoid needless complications. When in doubt, your rule should be: Respect the wishes of the majority, protect the minority and do what seems fair and equitable.

RESPONSIBILITIES OF THE CHAIR

- Recognize Board members entitled to speak or propose motions. Note: some motions may be made while another member has the floor. Speaker must state the purpose of the interruption so the chair can rule on its validity.
- Restate motions after they have been seconded, then open discussion.
- Close discussion and put motions to vote. Votes on non-debatable motions should be called immediately. If any member objects to closing discussion on a debatable motion, a 2/3 vote is required to order close of debate. Restate the motion exactly as it was made or amended before calling for a vote.
- Announce the result of a vote immediately. A tie vote defeats a motion requiring a majority of those voting. The chair may vote to make or break a tie.
- Avoid entering into any controversy or interfering with legitimate motions.
- Maintain order and proper procedure, making necessary rulings promptly and clearly.
- Expedite Board business in every way compatible with the rights of Board members. You can allow brief remarks on non-debatable motions, advise Board members how to take action (proper motion or form of motion), or order proposed routine action without a formal vote ("If there is no objection, the minutes will stand approved as read. Hearing no objection so ordered").
- Protect the Board from frivolous motions when purpose is to obstruct the Board's business. You can refuse to entertain such motions. Never adopt such a course, however, merely to expedite business.
- Guard the Board's time by having them vote to adopt an agenda at the beginning of the meeting. Follow the agenda faithfully. Do not permit unauthorized interruptions by spectators.

PRINCIPLES OF PARLIAMENTARY LAW

- Parliamentary procedure requires that all Board members have equal rights; there be mutual respect among Board members; and the rights of the minority to initiate motions; debate, and have their votes counted be protected, while at the same time the will of the majority governs.
- Only one item may be under consideration at a time.
- The majority vote decides the questions.
- Any question that limits Board members' rights of discussion or changes the agreed order of business requires a 2/3 vote of the members present.
- Any matter once decided cannot be brought up again at the same meeting, except by a motion to reconsider (see Section 2 for procedure).
- The simplest, clearest and most expeditious way is considered proper, as long as it does not violate the rights of Board members.

PROPOSING AND DISPOSING OF A MOTION

1. Gain floor by being recognized by chair.
2. State motion: "I move that...."
3. Motion is seconded by any member without gaining floor.
4. Chair states motion (if proper) and opens it for discussion (if debatable).
5. During discussion the motion may be amended or disposed of by postponement (to a time certain or indefinitely), referral to a committee, or tabling.
6. The chair puts the motion to a vote when there is no further discussion.
7. The chair announces the outcome of the vote.

MOTIONS

1. MOTION TO TAKE FROM TABLE

not debatable requires second majority vote not amendable

Purpose: To bring up for consideration an issue that has been laid on the table.

Effect of adoption: Puts motion before Board again in exactly the same condition as when laid on table.

2. MOTION TO RECONSIDER

debatable requires second majority vote not amendable

Purpose: To set aside a previous vote and reconsider the question for adoption or rejection.

Restrictions: Used only if vote cannot be reversed with more simple procedures.

Motion must be made by a member who voted on the prevailing side, and may not be made later than the next meeting after the vote to which it applies.

Motion may be made when another member has the floor, but its consideration is the same for a main motion. If action has already been taken, vote cannot be reversed.

Effect of adoption: Sets aside original vote, puts matter back to where it was just before that vote was taken.

3. MAIN MOTION

debatable requires second majority vote amendable

Purpose: To bring an issue up for consideration or action.

Effect of adoption: Action authorized.

4. MOTION TO POSTPONE INDEFINITELY

debatable requires second majority vote not amendable

Purpose: To kill main motion without a formal vote; trial vote to test strength.

5. MOTION TO AMEND A MOTION

debatable* requires second majority vote amendable

*Not debatable if motion to which it applied is not debatable.

Purpose: To put motion in most acceptable form before voting on it; by striking out or inserting words or substituting one paragraph or motion for another.

Restrictions: An amendment to a pending amendment may be proposed, but not an amendment to the third degree.

No idea already inserted by an amendment may be changed by a later amendment. Any germane amendment is in order as long as it is not identical in effect to a no vote on the main motion.

Effect of adoption: Changes the wording of the pending motion.

6. MOTION TO REFER TO A COMMITTEE

debatable requires second majority vote amendable

Purpose: To have a matter studied by a committee.

Form: Motion may include membership of committee and instructions to it, and may be amended with respect to these matters.

Effect of adoption: Disposes of motion until committee reports back or is discharged by the Board.

7. MOTION TO POSTPONE DEFINITELY

debatable requires second majority vote amendable

Purpose: To put off action on a motion until a later time.

Form: Motion must specify time at which matter will be taken up again and may be amended in this regard.

Effect of adoption: Disposes of matter until time set.

8. MOTION TO LIMIT DEBATE OR EXTEND LIMITS

debatable requires second 2/3 vote amendable

Purpose: To regulate length of time a question may be discussed or length of time allotted to each speaker.

Form: Motion states limits and may be amended in this regard.

9. MOTION ON PREVIOUS QUESTION

not debatable requires second 2/3 vote amendable

Purpose: To have discussion ended immediately and a vote taken.

Form: May specify only the immediately pending question, of all pending questions.

Effect of adoption: Chair must immediately put question to a vote and allow no further discussion.

NOTE: This motion should not be confused with the call for the "question" which is only a suggestion that the Board members are ready to vote, and may not be used to deprive any Board member of the right to continue the discussion if desired.

10. MOTION TO LAY ON THE TABLE

not debatable requires second 2/3 vote amendable

Purpose: To set a matter aside temporarily. May be moved even after the previous question has been ordered.

Effect of adoption: Matter on table may be brought up again, but not later than the next meeting, by adoption of a main motion to take it off the table.

11. MOTION RELATING TO VOTING

not debatable requires second majority vote amendable

Purpose: To provide for manner of motion (i.e., by ballot, voice, show of hands) order in which questions will be voted upon, appointment of tellers, etc.

12. QUESTION OF ORDER

not debatable no second decision of chair not amendable

Purpose: To ask that a rule that is being violated be observed.

Form: Floor is gained, even while another is talking, by stating, "Chairperson, I rise to a point of order". Chair asks member to state point, then rules whether point is well taken.

If point is accepted: Chair makes ruling.

If not accepted: Chair overrules point of order.

13. DIVISION OF BOARD

not debatable no second no vote necessary not amendable

Purpose: To secure a recount of a vote by a more accurate method than originally.

Form: Board member, without recognition, says, "I call for a division".

Effect of motion: Chair must retake vote by show of hands or written vote which can be counted.

14. APPEAL CHAIR'S DECISION

debatable requires second majority vote not amendable

Purpose: To overrule a decision made by the chair.

Form: "Chairperson, I appeal from the decision of the chair".

Restrictions: Must be made as soon as the decision is announced.
Debatable if pending question is debatable. Can be laid on the table, which takes the pending question with it.

Effect of adoption: If less than majority sustain chair, decision is reversed.

15. MOTION TO RECESS

not debatable requires second majority vote not amendable*

*Amendable only as to length of recess.

Purpose: To provide a short interruption of the meeting.

Restrictions: Treated as a main motion if no other matter pending or if proposed recess is not to be taken immediately.

16. MOTION TO ADJOURN

not debatable requires second majority vote not amendable

Purpose: To end the meeting immediately.

Restrictions: Treated as a main motion if qualified in any way.

Effect of adoption: Chair must adjourn meeting immediately, although necessary announcements may be made and a motion to fix a time for the next meeting may be entertained.

17. MOTION TO FIX TIME FOR NEXT MEETING

not debatable requires second majority vote amendable

Purpose: To set time for next meeting (either regular or special).

Restrictions: Treated as main motion if no other question pending, or if provision has already been made for another meeting on this day or the next.

LICENSURE EXAMINATIONS

One of the last hurdles most licensure candidates must face is the successful completion of the licensure examination. Whether the examination lasts one hour or several days, many candidates view this phase of licensure as a matter of "life and death". For this reason, when candidates fail their examination for licensure, their first inclination is to place the blame everywhere but on their own inability.

As a Board member, you have the ultimate responsibility for defending the examination regardless of whether you purchase the examination from a nationally recognized testing service or create the examination yourself. You must be able to convince the candidates, and perhaps the courts, that the examination provides an accurate measurement of the minimum competency required to ensure protection of the health, safety and welfare of the public. An examination is not intended, nor should it be used, to restrict entry into the profession. Rather, passage of an examination is to provide assurance to the Board and to the public, that an individual is indeed minimally competent at the time of initial licensure.

Below are some key points to remember when developing your exam procedures.

1. Monitors/proctors must be well trained in their responsibilities to insure the proper administration of the examination.
2. Positive identification of all candidates must be confirmed before they enter the examination room.
3. Candidates should be assigned to seating as they enter the examination room.
4. Storage and handling of the examination materials must be secure before, during and after the examination.
5. Examinations must be inventoried before and after examination.

SECURITY of examination materials is paramount. Because candidates view

success on the examination as essential to their livelihood, there is always the possibility of cheating or the removal of examination material from the test site. Make sure there will be sufficient staff available to monitor candidates at all times and that examination booklets are never publicly accessible.

QUESTIONS TO ASK REGARDING TEST ADMINISTRATION

	YES	NO
1. Has a candidate brochure, which outlines examination components and procedures been developed and implemented?	___	___
2. Are admission notices sent to the candidates in sufficient time prior to the examination?	___	___
3. Are rosters of scheduled candidates for each exam/site prepared?	___	___
4. Are candidates required to bring proof of identity or meet other admission requirements, and have the candidates been informed of those requirements?	___	___
5. Have emergency procedures been developed and communicated to all testing personnel?	___	___
6. Have supplies needed for the administration been inventoried, prepared and delivered to the site(s)?	___	___
7. Have candidate identifier cards/labels/tags been prepared prior to the administration (if appropriate)?	___	___
8. Have procedures been developed to handle problems at the test site (late candidates, test booklet misprinting, cheating) and communicated to all testing personnel?	___	___
9. Has an appropriate site been selected and does it include the following?		
a. adequate lighting/heating/cooling	___	___
b. adequate writing surfaces/seating	___	___
c. adequate restroom facilities	___	___

- d. Concession area/lobby _____
- e. adequate parking for staff/candidates _____
- f. free of unauthorized interference except in an emergency _____
- g. handicapped accommodations _____
- h. free from outside noise _____
- 10. Is the room capacity large enough to prevent crowding? _____
- 11. Is there a sufficient number of monitors given the number of candidates
(i.e. one monitor for every 30-35 candidates)? _____
- 12. Do monitors thoroughly understand their responsibilities? _____
- 13. Have detailed instructions for examination procedures and candidate
instructions been developed and implemented? _____
- 14. Are the printed and verbal directions clear, concise and specific? _____
- 15. Are instructions appropriate for the type of candidate being tested? _____
- 16. Are directions standard for each administration? _____
- 17. Have sample items/answer sheets been provided to assist the candidates in
understanding what is expected? _____
- 18. Is there sufficient time available for candidates to complete the examination
without being under excessive pressure? _____
- 19. Are examination materials distributed to candidates in a secure manner? _____
- 20. Are exams kept secure before/during/after the administration? _____
- 21. Are the number of exams/answer sheets inventoried before and after the
examination? _____
- 22. Are unusual events which occur during the exam documented In writing? _____

OVERVIEW OF LAWS AND RULES

The first thing you should do after your appointment as a Board member is to study the laws and rules of your Board. A copy of these laws and rules can be found in Section 20 of this manual. You should keep them handy as a ready reference during Board meetings or whenever you act in an official capacity. Pay particular attention to your rights and duties in the areas of licensing and discipline.

No one expects you to be a lawyer, or to recognize the legal nuances of the laws and rules. A full awareness, however, of what the laws and rules provide is an essential part of serving as a Board member. Your understanding of the laws and rules will help to maintain the integrity of the Board's work and avoid reversals in Board decisions by the courts.

The laws, or statutes, applicable to your Board are adopted by the legislature and signed into law by the Governor. They are subservient only to the United States and Idaho Constitutions. The Board's rules, which are established by the Board, must be based on statute for their authority and are approved through the legislative process.

The important thing to remember is that rulemaking is a responsibility delegated by the legislature to your Board and that rules must always be subsequent to the statutes. Laws are often not comprehensive enough to provide the details of the licensing procedure and practice. Licensing Boards have the responsibility to adopt rules which implement the intent of the law. Boards also have the right to amend or repeal existing rules and to determine their effectiveness in reflecting the intent of the legislature and the needs of the licensing function. Once adopted, rules have all the force and effect of the law.

Familiarity with the formal interpretations of the licensing law where they are available will be helpful. These include: (1) formal and informal attorney general opinions; (2) pertinent court decisions and (3) your law's legislative history.

While each licensing law is unique, many licensing acts have common features such as:

Laws and Rules.....Section 10

<u>Section</u>	<u>Purpose</u>
Definitions	Defines key words such as Board, director, permit.
Board Structure	Outlines the number of and Functions Board embers, their duties, terms, compensation.
Licensing Requirements	Sets out minimum qualifications for practice, age, education, etc.
Scope of Practice	Lists the areas that licensees may lawfully perform.
Administrative Provisions	Covers application procedures, fees, renewals, permits, etc.
Examinations	Defines topics, type of test, passing grades, etc.
Reciprocity	Lists conditions under which persons from out of state may be licensed
Grounds For Suspension	Gives circumstances under which a licensee may be disciplined or sanctioned.
Penalties for Violating	In addition to criminal prosecution, sanctions often include monetary fines and license suspension or revocation.

Some licensing laws also require licensure of the business premise where the licensee is employed. Such laws include sections on the approval of business applications and provide for facility inspections. The Board may also be responsible for licensure of professional schools and/or approval of their curriculum. Special provisions outlining the approval standards for such programs are usually found in these laws. While reading a statute, keep in mind the law's general purpose and the structure of the act. Generally, the statute must be read as a whole rather than section-by-section to understand it. Also note important precise distinctions that occur in the law, such as whether a Board "may" perform some act or "shall" perform it as required.

Other Laws Which Are of Interest

Several state laws have been enacted which have direct bearing on the manner in which a Board conducts its business. Two of these are the open meeting law and the public records law.

Open Meeting Law

The open meeting law is based on the concept that publicity is a helpful preventative for many of the more common ails of those who govern the public. This law opens agency meetings to the public and to the press. Violation of this law for whatever reason, whether innocent or not, can prove costly and may result in the invalidation of actions taken at such a meeting. As an entity subject to the requirements of the open meeting law, your Board must assure that:

- All meetings are open to the public;
- No action or decision is taken by secret ballot;
- Appropriate public notice of the meeting is given;
- Written minutes are kept; and
- Only authorized executive sessions are conducted.

The requirement that meetings be open to the public, and that appropriate notice is given, is satisfied when the meeting takes place at a time that is fixed either in your laws or in your rules. These are "regular meetings" and need not have any additional public notice.

Meetings conducted at other times are noticed as "special meetings". These meetings can be convened only after a special call for the conduct of business identified specifically in the call. Special meetings may be held upon notice that is "appropriate to the circumstances". In an emergency, no notice is required (valid emergencies involve potential injury or damage to persons, property, or the likelihood of injury). In order to conduct your Board meetings properly, be sure to consult with the Bureau personnel and your legal counsel. Make sure the Bureau Chief is aware,

well in advance, of any meetings you may be contemplating which are not regularly scheduled. By notifying the Bureau and your attorney, you will be able to comply with the meeting notice requirements that are set forth in the law.

You should be advised, however, that there are certain exceptions to the general rule that do allow for deliberations to take place behind closed doors. These meetings, called executive sessions, are closed to the general public and can be entire meetings or parts of meetings. If a meeting is to be an executive session only, notice must still be given to the general public, and must state the reason and the provision of law that authorizes the executive session. A 2/3rds vote, recorded in the minutes of the meeting by individual vote, is required to hold an executive session.

There are specific requirements that Board's must follow when holding executive sessions. Executive sessions are authorized for the purpose of making hiring decisions, or considering or evaluating or disciplining public officers, employees, staff members or agents. Records that are exempt from public inspection (such as application files or complaint files) may be discussed in executive session. Executive sessions are also used to consider and advise legal representatives about pending litigation or where there may be a "general public awareness" of probable litigation. Under no circumstance may any executive session be held for the purpose of taking final action or making final decisions.

It is the opinion of the Idaho Attorney General's Office that the provisions of the open meeting law must be complied with WHENEVER a quorum of the members of the Board meet to decide or deliberate on matters which are within the scope of official business. Such meetings might be formal, informal, or social so long as a quorum is present and there is intent to deliberate or make a decision. Consequently, gatherings at which a majority of Board members are in attendance must be carefully monitored to avoid any appearance of impropriety.

TITLE 67
CHAPTER 23
IDAHO CODE

OPEN MEETING LAW

67-2340. FORMATION OF PUBLIC POLICY AT OPEN MEETINGS. The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

7-2341. OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this act:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with sections 67-2342 through 67-2346, Idaho Code.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body which is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) any state board, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) any regional board, commission, department or authority created by or pursuant to statute;

(c) any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

(d) any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.

(5) "Governing body" means the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "regular meeting" means the convening of a governing body of a public agency

Laws and Rules.....Section 10

on the date fixed by law or rule, to conduct the business of the agency.

(b) "special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

67-2342. GOVERNING BODIES -- REQUIREMENT FOR OPEN PUBLIC MEETINGS. (1) Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in chapter 38, title 63, Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under chapter 43, title 41, Idaho Code, the Idaho insurance guaranty association established under chapter 36, title 41, Idaho Code, and the surplus line association approved by the director of the Idaho department of insurance as authorized under chapter 12, title 41, Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

67-2343. NOTICE OF MEETINGS. (1) Regular meetings. No less than a five (5) calendar day meeting notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. A forty-eight (48) hour agenda notice shall be required in advance of each regular meeting, however, additional agenda items may be added after completion of the agenda up to and including the hour of the meeting, provided that a good faith effort is made to include in the notice all agenda items known at the time to be probable items of discussion. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or if no such office exists, at the building where the meeting is to be held.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at

Laws and Rules.....Section 10

the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

67-2344. WRITTEN MINUTES OF MEETINGS. (1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes, and upon the request of a member, the vote of each member, by name;

(2) Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with the provisions of section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the meeting.

67-2345. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization under this act for the holding of such executive session. An executive session may be held

(a) To consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation;

(g) By the commission of pardons and parole, as provided by law;

(h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

67-2347. VIOLATIONS. (1) If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the provisions of sections 67-2340 through 67-2346, Idaho Code, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of sections 67-2340 through 67-2346, Idaho Code, who knowingly conducts or participates in a meeting which violates the provisions of this act shall be subject to a fine not to exceed one hundred fifty dollars (\$150) for a first violation and not to exceed three hundred dollars (\$300) for each subsequent violation as a civil penalty.

(3) The attorney general shall have the duty to enforce this act in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this act in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this act, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose as provided in section 31-2603, Idaho Code.

(4) Any person affected by a violation of the provisions of this act may commence a civil action in the magistrate division of the district court of the county in which the public agency ordinarily meets, for the purpose of requiring compliance with provisions of this act. No private action brought pursuant to this subsection shall result in the assessment of a civil penalty against any member of a public agency and there shall be no private right of action for damages arising out of any violation of the provisions of sections 67-2342 through 67-2346, Idaho Code. Any suit brought for the purpose of having an action declared or determined to be null and void pursuant to subsection (1) of this section shall be commenced within thirty (30) days of the time of the violation or alleged violation of the provisions of this act. Any other suit brought under the provisions of this section shall be commenced within one hundred eighty (180) days of the time of the violation or alleged violation of the provisions of this act.

The Idaho Public Records Law

The Idaho Public Records Law was passed by the 1990 legislature. It strives to balance two principles: that government not operate in secrecy, and that our citizens' privacy be secure. The law sets down rules which give individuals access to public documents, while at the same time attempting to ensure that certain information be kept confidential in order to protect individual privacy.

The premise of this law is that every person has the right to examine and take a copy of any public record of this state. It presumes that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by law. Certain public records are exempt from disclosure by state or federal law or federal regulation. Additionally, other records may be exempt.

As applied to regulatory Boards, exempt records include test questions, scoring keys, and other data used to administer licensing examinations. It also includes personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, which may be submitted to public agencies pursuant to a requirement for licensing or certification.

Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license or certificate is exempt from disclosure. This right, however, is limited. The right to inspect records pertaining to oneself does not include the right to review otherwise exempt investigative records only while the investigation is ongoing or if the information is being compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable.

The Bureau Chief acts as the custodian of all Board records. These records include, not only the application and examination files, but the historical files and the minute books as well. Requests for production or access to public records should be referred to either the Bureau chief or the attorney assigned to the Board. The law sets out very specific timeframes and procedures for responses to public record requests.

**TITLE 9
CHAPTER 3
IDAHO CODE**

PUBLIC WRITINGS

9-338. Public records -- Right to examine. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) The custodian shall make no inquiry of any person who applies for a public record, except to verify the identity of a person requesting a record in accordance with section 9-342, Idaho Code, to ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 9-348, Idaho Code, or as otherwise provided by law. The person may be required to make a written request and provide their name, a mailing address and telephone number. [The custodian shall make no inquiry of any person who applies for a public record, except that the person may be required to make a written request and provide a mailing address and telephone number, and except as required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law.]

(5) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(6) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(7) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(8) (a) A public agency or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law. The actual cost shall not include any administrative or

Laws and Rules.....Section 10

labor costs resulting from locating and providing a copy of the public record; provided however, that a public agency or public official may establish a fee to recover the actual labor cost associated with locating and copying documents if:

- (i) The request is for more than one hundred (100) pages of paper records; or
- (ii) The request includes records from which nonpublic information must be deleted; or
- (iii) The actual labor associated with locating and copying documents for a request exceeds two (2) person hours.

(b) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

- (i) The agency's direct cost of copying the information in that form;
- (ii) The standard cost, if any, for selling the same information in the form of a publication.

The custodian may require advance payment of the cost of copying. Any money received by the public agency shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund.

(c) The public agency may not charge any cost or fee for copies or labor when the requester demonstrates either:

- (i) The inability to pay; or
- (ii) That the public's interest or the public's understanding of the operations or activities of government or its records would suffer by the assessment or collection of any fee.

(9) A public agency shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(10) Nothing contained herein shall prevent a public agency from disclosing statistical information that is not descriptive of an identifiable person or persons.

9-339. RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS. (1) A public agency shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency that a longer period of time is needed to locate or retrieve the public records, the public agency shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request.

(2) If the public agency fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or that person's designee shall notify the person in writing of the denial

or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency has reviewed the request or shall state that the public agency has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so.

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

Laws and Rules.....Section 10

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, finding, determinations and decision of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho Code.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

- (15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.
- (16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.
- (17) Records of the department of law enforcement or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.
- (18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records on and after the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.
- [(19)](18) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

9-343. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY OF RECORDS -- RETENTION OF DISPUTED RECORDS. (1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency to make the information available for public inspection in accordance with the provisions of this act. The petition contesting the public agency's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in this act shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings.

BOARD MEMBER EXPENSE REIMBURSEMENT

In this section you will find a brief description reimbursable expenses. The Bureau of Occupational Licenses is authorized by state law to reimburse board members traveling on board business. Travel request forms and Travel Expense Vouchers are available from the Bureau. If you need additional guidance, please contact the Bureau office.

A. Mileage

Reimbursement is at the maximum rate of **37.5** cents per mile.

A **receipt** for parking charges **must be submitted** with your travel voucher.

B. Airfare

When traveling to board meetings or other authorized board activities, you may purchase your airline tickets directly and either, apply for reimbursement upon completion of travel, or apply for an advance with the Board secretary. The Board secretary will also be happy to make airline reservations for you.

You may also request that your travel agent directly bill the Bureau for the airline ticket. If your travel agent does not have an account with the Bureau, one can be set up by calling the Bureau's Accounting Department.

The **original travel itinerary** you receive from the travel agent, with the ticket price listed, **and the ticket receipt card must be submitted** with your travel voucher.

C. Car Rental

When a rental car is required for Board business, you may arrange for the vehicle yourself, or through a travel agent, or with the Board secretary. As with other expenses, you may apply for reimbursement upon completion of travel, or apply for an advance with the Board secretary.

The **original car rental invoice** that you receive from the rental company **must be submitted** to the bureau with your travel voucher. Bureau policy requires that the Board specifically and individually approve requests for all car rental reimbursements.

D. Meals

You will be reimbursed for IN-STATE meals according to the following schedule:

ALL DAY (7:00 AM to 7:00 PM or longer)	\$30.00
--	---------

Reimbursement for meals for partial days travel, or individual meals claimed, will be reimbursed according to the following schedule:

Breakfast	\$ 7.50
Lunch	\$ 10.50
Dinner	\$ 16.50

OUT-OF-STATE meal reimbursements are calculated using the U.S. Government Services Administration Domestic Per Diem Rates for the place of travel.

To qualify for individual meal reimbursement:

Breakfast: Actual departure must be before 7:00 a.m. If returning from a trip (meeting), arrival time must be after 8:00 a.m. Therefore, if the traveler leaves home after 7:00 a.m., or returns home prior to 8:00 a.m., breakfast may not be claimed for that day.

Lunch: Actual departure must be before 11:00 a.m. If returning from a trip (meeting), arrival time must be after 2:00 p.m.

Dinner: Actual departure must be before 5:00 p.m. If returning from a trip (meeting), arrival time must be after 7:00 p.m. to receive reimbursement for dinner.

If you are eligible to claim all 3 meals in a day, the ALL DAY amount will be reimbursed.

Beginning and ending travel times must be shown on your travel voucher for the days that you traveled to and from your destination. Meals will be calculated accordingly.

Please Note: If a meal is provided as part of a registration, room rate, etc., it cannot be claimed on the travel voucher. Included complementary continental breakfasts and appetizers should not be considered as “provided meals.”

E. Taxi/Airport Shuttle

These charges are reimbursable. A **receipt must be submitted** with your voucher.

Board Member Expense - Reimbursement.....Section 11

F. Hotel

Hotel charges may be paid directly by the traveler or billed directly by the hotel to the Bureau. Your board secretary can also make your hotel reservations upon request. When the Bureau is billed directly for hotel charges, your Board is exempt from paying room and sales taxes.

The following Hotel charges will be reimbursed:

1. The lowest available **State government standard room rate** + taxes.
2. One phone call home per day lasting no longer than 10 minutes.
3. Phone calls made on board business listed on the hotel billing.

Room rate charges in excess of the State government room rate are the responsibility of the traveler and will not be reimbursed without specific approval by the Board. Charges such as room upgrades, room service, personal telephone charges, movie rentals, etc., are your responsibility and may not be reimbursed.

To receive reimbursement for hotel charges, the **hotel receipt** that you receive at checkout time **must be submitted** with your travel voucher.

G. Registration Fees

Registration fees may be paid by you or directly by the Bureau.

If you pay such fees, a **receipt must accompany your travel voucher** to obtain reimbursement.

Frequently Asked Questions:

- Q: If I have a meal billed to my room, will the Bureau pay for it if the room is billed directly to the Bureau?
- A. No. It is your responsibility to pay for all charges in excess of the room rate at checkout. You will be reimbursed for meals as shown in section C.
- Q. If I fly my own plane, will I be reimbursed for all my expenses?
- A. No. The State of Idaho travel policy established by the State Board of Examiners allows reimbursement to be made at the same rate as driving a vehicle (34.5 cents a mile from city of origin to destination). Parking of the aircraft is the only other allowable expense.
- Q. May I receive the allowed honorarium for travel time to and from Board activities?
- A. No. Idaho Code specifies that members of part-time boards, commissions or councils shall receive an honorarium for each day spent in the actual performance of duties. Travel time is not considered “the actual performance of duties.”
- Q. May I receive an advance for upcoming trips and expenses?
- A. No.
- Q. May I receive reimbursement for tips?
- A. Yes and No. Reasonable gratuities for taxis, shuttles, bellhops, etc., are reimbursable without a receipt. Simply add a note to your expense voucher that details the amount and service associated with each tip. Gratuities for meals are not reimbursable.

TRAVEL VOUCHER INSTRUCTIONS

The travel voucher is an itemized request for reimbursement of expenses incurred while conducting Board business. The voucher may not be used to obtain reimbursement for expenses that are expected to take place in the future. This voucher may only be used after a trip, meeting, or other Board activity has occurred. If you wish to receive an advance for future Board business, please contact your Board secretary for an In-State Travel Request or an Out-of-State Travel Request form.

On the Travel Voucher, please insert your vehicle's license number, your social security number, the month(s) of the expenses, and your signature in the appropriate darkened areas in the upper section of the voucher. Please copy and complete an additional voucher if you need more room to list your expenses.

Beginning on the first line, under "DATE" enter the exact date on which you had expenses.

If you travel in your personal car, please make note of your odometer readings and insert the beginning and ending readings for each day.

Continuing on the same line, under "CITY FROM" enter the name of the city from which your travel began on the date you entered.

Under "CITY TO" enter the name of the city to which you traveled. If you stayed in the same city all day, enter "vicinity."

Under "LEAVE TIME" enter the time of day your travel began.

Under "ARRIVE TIME" enter the time of day you arrived at your place of lodging (if official travel required an over-night stay) or, the time you arrived back at the original "CITY FROM".

Under "COMMENTS" list the appropriate abbreviations for the meals you purchased for each day (**B**=breakfast; **L**=lunch; **D**=dinner). We will fill in the appropriate amount under "MEALS" based on your entries under "COMMENTS." Reimbursement for meals for partial days travel, or individual meals claimed, will be reimbursed according to the previously noted schedule.

Based on the above qualifiers, if you are eligible to claim all 3 meals in a day, please request the maximum ALL DAY (**BLD**) reimbursement. Receipts are not required for meal reimbursement.

Under "LODGING" enter the actual amount, including all taxes, which you paid for lodging. If your lodging was billed directly to the Bureau, enter **DB** instead of an amount. To receive reimbursement for hotel charges, the **hotel receipt** that you received at checkout time **must be submitted** with your travel voucher. Hotel charges will be reimbursed as follows:

1. The lowest available **State government** room rate plus taxes.
2. One phone call home per day lasting no longer than 10 minutes.
3. All phone calls made on board business listed on the hotel billing.

Under “TOTAL MILES” enter the number of actual miles you drove your vehicle for Board business on the date listed. Your mileage reimbursement is computed at the maximum rate of 36 cents per mile.

Other entries under “COMMENTS” are optional.

Repeat the above procedure for each date of travel for Board business.

Miscellaneous expenses should be itemized on a separate piece of paper, or clearly identifiable on the receipt. With the exception of meals, **all** travel and miscellaneous expenses must be documented with **original receipts**, including public transportation fares, parking, shuttles, registration fees, etc., clearly showing the vendor, the purpose of the expense, the date of the expense, and the amount of the expense

For airline travel, the **original travel itinerary** you received (with the ticket price listed), **and the ticket receipt card must be submitted** with your travel voucher.

COMPLAINT POLICY & PROCEDURES

The Bureau of Occupational Licenses has a policy of operating from written and signed complaints. Persons attempting to submit verbal or 3rd party complaints will be advised that all complaints must be in writing and signed by the complainant before the Bureau will consider them.

An initial brief review of all new complaints to insure that adequate information has been submitted and that jurisdiction exists will be performed. If additional information is necessary, a letter of request is sent to the complainant. If, after consultation with legal counsel, the complaint is determined to be outside the jurisdiction of a board, the complainant is notified of that fact, as well as other avenues that may be pursued. The complaint may also be referred to another governmental entity for consideration. A screening team, consisting of the Deputy Attorney General (prosecuting attorney), the Bureau Chief and the Deputy Bureau Chief, meet on a regular basis to review all new and existing complaints. This process is referred to as "screening". Complaints containing adequate basic information, and that are within the jurisdiction of the board, are placed in the screening file for review by the screening team.

During screening, each new complaint is reviewed to determine the appropriate action that is necessary. If the new complaint warrants investigative action, a complaint number is assigned. The original complaint documents are given to the Administrative Assistant, who prepares both a master file and an investigative file, registers the complaint number on the complaint log, and generates a notice of receipt letter to the complainant. This letter gives notice that the complaint will be investigated, and that notice of final action will be given when the process is complete. The complaint is then assigned to one of the Bureau's field investigators. The master files are kept in the Deputy Chief's office and contain all the original documents received with the complaint. The master file will ultimately consist of the original complaint, investigative documents, evidence, and correspondence.

Existing complaints are also reviewed during screening. The team reviews the investigative progress and the current status of active investigations. The team or the investigator may also refer the complaint to a technical advisor for input at any time during the process. The boards may supply the bureau with a list of technical advisors. Once the technical advisor has rendered an opinion, the team reviews the complaint again to determine the appropriate disposition. If the advisor is a board member, that member may be recused from any subsequent discussion or board action concerning the matter.

Once the investigation is deemed complete, the screening team determines if the evidence warrants legal action. If so, the file is assigned to the prosecuting attorney for review and a recommendation of appropriate action to address the issues in the complaint. The recommendations are reviewed by the screening team, and prepared for presentation to the Board.

The board, or designated board member, is notified prior to closing a complaint file. Any proposed action against a licensee is always presented to the board for approval. Consent agreements may be negotiated with the respondent by the prosecuting attorney prior to presentation to the board, however, the board must accept consent agreements before they are valid. All disciplinary actions, including letters of reprimand, consent agreements, and Board orders are considered formal actions and subject to public disclosure.

Formal disciplinary actions follow the rules of procedure under the Administrative Procedure Act.

GUIDELINES FOR THE DISCIPLINARY PROCESS

I. STEPS IN THE PROCESS

A. Complaint and Investigation

Any person who knows of a violation by an occupational license holder of the lawful requirements for the retention of that license may report the violation to the Bureau. An investigation is then performed to provide the Bureau and its prosecutor with the information necessary to decide whether there is probable cause to believe that a violation of law or rules has occurred. The Bureau and prosecutor then review the results of the investigation to develop a recommendation of action. That recommendation is presented to the board at a regularly scheduled meeting to determine if disciplinary action should be initiated against the licensee. If it is determined that the board has no jurisdiction over the individual, no further action is taken. The Bureau may also, if it finds an immediate threat to the public health, safety or welfare exists and if the board has the appropriate statutory authority, proceed to summarily suspend the license pending the prompt initiation of a disciplinary hearing.

B. Investigation Results Presented to Board

Without disclosing the names of the parties involved, the results of the investigation are presented to the appropriate board for consideration. After that review, there are essentially two options available to the board. If the board is of the opinion that there is probable cause to believe that there has been a violation of its laws or rules, it can instruct the Bureau to proceed with a disciplinary action. If the board does not make this finding of probable cause, the board is obligated to dismiss the case.

C. Prosecution

Once the case has been referred to the Bureau prosecutor for disciplinary action, there are a number of possible outcomes. The “lightest” sanction a board can administer is a letter of instruction, educating the licensee on the appropriate statute or rule. The next step would be a warning letter, which is an official record of an admission by the licensee of some violation of the licensing law and a warning by the board not to engage in that type of activity again. The board can issue a warning letter without a hearing if the licensee agrees to accept the letter. If the licensee refuses to accept the letter, the board must either go to a hearing to prove the case or dismiss it.

One of the most common forms of discipline administered by a board is through the consent order. A consent order is simply a negotiated settlement between the licensee and the board (through the prosecutor) requiring the licensee to meet certain conditions in order to maintain a license. The two parties can agree to just about anything. The most usual conditions include a reprimand, suspension, probation, continuing education, supervised practice, and/or limited practice. Boards can also impose fines of up to \$1,000.00 for each violation of its laws, and recover costs and attorneys' fees. Finally, if either the board or the licensee is unwilling to negotiate a settlement, the case can be brought to a hearing.

The investigation and prosecution of a case is performed by the Bureau and the prosecutor. If a board member participates in any part of the investigation of a case (such as performing a pro review on a file), that board member cannot participate in any decision-making capacity on the case and should not discuss the details of the case with the complainant, the licensee, or other board members. In addition, to protect the due process rights of the licensee, any board member who (1) happens to be unintentionally aware of substantive facts of a case before the evidence has been formally presented to the board and (2) will ultimately participate in the decision making process on the case cannot discuss those facts with the complainant, the licensee, the prosecutor, or other board members.

The adjudication of a case is performed by the board. The judicatory functions include: deciding whether to issue a complaint, deciding whether to accept a consent order or other settlement, deciding the merits of a complaint following presentation of evidence, and deciding the appropriate sanction, if any. When contacted by the public, a complainant, a licensee, or others concerning a complaint, the board may explain the Bureau's procedures, explain the board's jurisdiction or authority, and direct the individual to appropriate Bureau personnel who can provide investigative assistance. When a complaint is filed, the board may discuss whether given allegations would, in the board's opinion, warrant direction to Bureau investigators to pursue further investigation.

II.

The Administrative Hearing Process

The administrative hearing process is controlled by state statute and rules. Some boards employ the services of a hearing officer and simply review the record, findings of fact, conclusions of law and recommendations of the hearing officer. Other boards employ a hearing officer to sit as a judge and rule on motions and evidence while the board members sit as a jury. Though a board may do without a hearing officer and sit as both judge and jury, this method is not usually recommended. Regardless of the method chosen, the board's responsibility is to reach a decision and render a judgment, and the board may not delegate that decision-making function to a hearing officer or anyone else.

A. What is a "Contested Case"

The contested case provisions of the Administrative Procedure Act (APA), title 67, chapter 52, Idaho Code, govern all proceedings by an agency that may result in the issuance of an "order," unless otherwise provided by law. "Order" is defined by the APA as an "agency action of particular applicability that determines the legal rights, duties, privileges, immunities or other legal interests of one (1) or more specific persons." Therefore, it is the legal effect of the decision—whether it affects an enumerated interest—that determines whether a board must conduct a contested case, not whether the legislature has provided by statute for a hearing.

B. Informal Disposition of Disputes

As discussed above, most disputes between a board and a licensee are resolved through informal methods rather than through contested case proceedings. The APA explicitly recognizes that informal settlement of matters is to be encouraged. The statute allows the parties to negotiate, stipulate, settle or use consent orders rather than go to hearing. When presented with a consent order, the board must either accept or reject it, indicate how it must be modified to be acceptable, or inform the parties what further information is required for the board's consideration of it. Disposition of a dispute under any of these provisions is a "final agency action."

C. Procedure at the Evidentiary Hearing

The APA requires that all parties to a contested case be notified of the time, place, and nature of the hearing, the legal authority under which it is to be held and a short and plain statement of the matters asserted or the issues involved. In Idaho, these minimal statutory provisions are supplemented by the Bureau's and the Attorney General's procedural rules. These rules provide the procedures applicable to intervention, pre-hearing conferences, pleadings, briefs and motions, service and

subpoenas, discovery orders and protective orders.

The goal of all contested case proceedings is to ensure that there is a full disclosure of all relevant facts and issues. The APA specifically obligates the presiding officer to conduct the hearing to assure that all parties have the opportunity to present evidence and argument, and respond to all the issues.

The APA requires the presiding officer to create a record of the evidentiary hearing. A sound or video recording is sufficient; the board is not required to create a stenographic record. All or part of the hearing may be conducted by telephone, television, or other electronic means. The board is responsible for the cost of recording the hearing.

The drafters of the APA adopted the clear trend in Idaho case law and left the admission of evidence almost entirely to the discretion of the presiding officer. Thus, a presiding officer is authorized to exclude evidence that is irrelevant or unduly repetitious, or that is excludable on constitutional or statutory grounds, or the subject of an evidentiary privilege provided by statute or recognized by courts. The officer may also receive evidence in written form and may accept copies of documentary evidence.

The APA also recognizes that a board's experience, technical competence, and specialized knowledge may be used in the evaluation of evidence. This is an explicit statutory recognition that the board's repeated exposure to a specialized subject matter is a source of specialized knowledge that is useful in evaluating evidence.

If any party fails to attend any stage of a contested case, the presiding officer may serve a notice of proposed default order on all parties. The party who is proposed to be in default must petition the presiding officer within seven days after service of the proposed order to request that the order be vacated. When a default order is issued, the presiding officer is to conduct further proceedings in the contested case without the participation of the defaulted party and must determine all issues in the adjudication including those affecting the defaulted party.

D. Securing an Unbiased Hearing

A fundamental tenant of due process is the unbiased decision maker. The disqualification of a presiding officer or board member, and of *ex parte* communications, comprise the core of the APA's impartiality requirements. These sections are intended to ensure that the decision maker bases the order solely on the facts and arguments contained in the records created at the evidentiary hearing.

Hearing officers may be disqualified from hearing a contested case in two situations. First, each party has a right to one disqualification without the need to

specify cause. Second, each party has the right to disqualify a hearing officer for cause. Hearing officers, however, may only be disqualified for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, or any other cause for which a judge may be disqualified, but also for lack of professional knowledge of the subject matter of the contested case.

Board members may be disqualified as well if a board member has either a financial interest in the outcome of the proceeding or has a personal bias and/or prejudice, unless to do so would prevent a quorum from deciding the case. However, there is case law that suggests that if a tainted board member did participate in the case, the licensee has the ability to appeal and ask that the decision be set aside on the grounds that he/she was not afforded a fair and impartial hearing. Thus, in order to avoid situations in which a board member could be challenged, it is best to avoid *ex parte* communications with parties or potential parties in a contested case. If *ex parte* contact does occur and the appearance of bias or prejudice is created, the board member should voluntarily recuse him or herself from participating in the deliberations and should not discuss any facts learned with any of the other board members or the prosecutor.

The APA prohibits parties in contested cases from communicating with the hearing officer or board members in a contested case regarding the substance of the contested case, except upon notice and opportunity for all parties to participate in the communication. There are three exceptions to this prohibition on *ex parte* communication. First, the prohibition does not apply to *ex parte* communications specifically authorized by statute; second, the prohibition does not apply to communications regarding any procedural matters; and third, the prohibition does not apply to non-parties.

The issue whether the same deputy attorney general may prosecute a license revocation matter and also advise a board during deliberations of the same case is not clearly settled. However, there have been a sufficient number of courts that have held that the duality of function is fundamentally unfair and offends traditional notions of justice and fair play. As such, it should be avoided. Counsel associated with either the prosecution or defense should not be present during a board's deliberations. If a board wishes to have legal counsel present to give procedural advice during this process, separate counsel, should be retained.

E. Decision Making in Contested Cases

A board's deliberation process is typically governed by the state's open meeting laws, which provide for "executive sessions" whereby the board closes the meeting to consider the imposition of discipline upon a licensee based upon the evidence presented in a contested case. Although not specifically addressed in the APA, several cases have addressed the issue of whether all board members must

participate in the actual hearing of the evidence. While some courts have held that where the transcripts from the hearing are reviewed in full by the absent board members, the licensee's rights are not violated, other courts have held that where the board has made findings on credibility of the parties and resolved a series of questions based upon those findings, the licensee's constitutional rights to due process are violated.

F. Orders

Idaho's APA provides for four kinds of orders: recommended orders, preliminary orders, final orders, and emergency orders. The distinction between recommended and preliminary orders is the degree of finality that is attached to each. If the order does not become final until the agency head has reviewed it, the order is a recommended order. If the order becomes final unless a party seeks review it, the order is a preliminary order. A board can issue an emergency order without conducting a hearing, and the order is effective upon issuance. The APA specifies procedures to be employed in emergency proceedings when a board may issue an order to address a situation involving an immediate danger to the public health, safety, or welfare requiring immediate board action. In issuing an emergency order, the board is to take only such actions as are necessary to prevent or avoid the immediate danger. After issuing the emergency order, the board is required to initiate the procedures that would have been required but for the immediate danger.

All orders, whether preliminary, recommended, final, or emergency, must be in writing and must contain two types of information. First, each order must contain a reasoned statement in support of the decision, including a concise and explicit statement of the underlining facts in supporting findings. Except for emergency orders, findings of fact must be based exclusively on the evidence in the record or on matters officially noticed. Second, the order must include a statement of the available procedures for seeking administrative or judicial review.

G. Contested Case Record

To facilitate any subsequent administrative or judicial review of the order, the Bureau is required to maintain the official record of each contested case for at least six months after the expiration of the last date for judicial review. The record must include all notices of proceedings, pleadings, motions, briefs, petitions, and intermediate rulings; evidence received or considered; a statement of matters officially noticed; offers of proof and objections and rulings; the record prepared by the proceeding officer and any transcript of the record; and any recommended order, preliminary order, final order, or order on reconsideration.

H. Judicial Review

The APA provides for judicial review of all agency actions, including orders issued in contested cases. On appeal, the court's role is to review the record created before the board and determine whether the board's decision was both reasonable and sufficiently explained. To reverse the board's decision, the reviewing court is required to conclude that the decision was in violation of constitutional or statutory provisions, in excess of the statutory authority of the board, made upon unlawful procedure, or arbitrary capricious or an abuse of discretion.

ADMINISTRATIVE RULEMAKING

INTRODUCTION

Rulemaking procedures are designed to ensure fairness in agency proceedings. Idaho law carefully details the procedural aspect of rulemaking in the Administrative Procedure Act.

If the Board has been given the statutory authority to make rules, the Board is required to give notice of its rulemaking authority, publish a draft of its rules, allow the public to comment, and consider those comments before adopting a final rule. In limited situations, a procedure exists for the creation of temporary rules that become effective immediately. This chapter covers four areas dealing with rules:

- A. Defining rules;
- B. Regular Procedures for Adopting Rules;
- C. Temporary Rulemaking; and
- D. Summary.

A. DEFINING RULES

By definition, a rule is generally any statement of general applicability that:

1. Implements, interprets, or prescribes law or policy; or
2. Defines the organization or the procedure and practice requirements of an agency of state government.

Thus a rule:

- establishes a requirement
- sets a standard
- establishes a fee
- provides a set procedure
- tells how a law will be implemented
- gives guidance for compliance with a law
- describes the structure of an organization
- instructs members of the public (or a particular group) in how they must deal with or practice before an agency.

Kinds of rules. Three kinds of rules are generally recognized:

1. Procedural Rules--set out the agency's organization procedures through which information may be obtained and establish the rules of practice before the agency;
2. Substantive Rules--set out the law, and/or provide any details and standards directed by the legislature; and
3. Interpretive Rules--interpret legal standards or phrases.

The authority to issue rules must be specifically granted either by statute or delegated by the entity given that power. Thus, a licensing Board may be given rulemaking authority directly by statute, or the governor or agency given rulemaking authority by the law may delegate this authority to it. Rules promulgated must be reasonably related to the statutory language and purpose of the law.

In some instances, the enabling statutes mandate both procedural and substantive rules. In other instances, interpretive rules may be required. Occasionally, the public

will petition to have a rule issued or will even propose a rule. The Board, therefore, should have written procedures for the development of rules. There is a uniform style and format mandated by the state law and set forth in the Administrative Procedure Act.

B. REGULAR PROCEDURES FOR ADOPTING RULES

In order to be legally binding, proposed rules or changes in rules must be adopted according to the Administrative Procedure Act. This procedure requires:

- written public notice of intent to adopt or change the rule which is published in the Idaho Administrative Bulletin;
- opportunity for the public to submit written comments on the proposed rule and/or to appear at a public hearing;
- consideration of the comments; and
- filing of final rules with the Administrative Rules Coordinator and publishing in the Idaho Administrative Bulletin.

The Administrative Rules Coordinator provides all rules to the Senate and/or House at the beginning of a session. They must be acted upon within the first forty-five days of the session. Rules may be passed as submitted, amended or repealed.

C. TEMPORARY RULEMAKING

In limited circumstances, the Board may adopt rules that become effective immediately. The proposed temporary rules must be submitted to the Governor for review. Temporary rules may be adopted only if the governor finds that the rule is necessary to: protect the public health, safety and welfare; insure compliance with statutory deadlines; confer a benefit. Temporary rules, unless approved, amended, modified, or replaced by a final rule, expire at the conclusion of the next regular session of the legislature.

D. SUMMARY

As a Board member, having to anticipate possible administrative and/or judicial

review of your actions, you should make every effort to comply with all the procedural due process requirements for rulemaking. A good general checklist may be stated as follows:

1. Be sure you have clearly and simply stated organizational rules;
2. Be sure you comply with the letter of the law in giving clear and adequate notice of your intention to engage in rulemaking;
3. Make sure that all interested people have an opportunity to obtain a copy of the rule;
4. Consider if a public hearing is required or needed, and if so, be sure that proper notice of the hearing is given; and
5. Keep a record of the comments received or the testimony heard, and official responses to it.

ADMINISTRATIVE BILL

An Administrative Bill is a bill presented to both the Governor's staff and the Division of Financial Management for review and approval prior to the beginning of the legislative session. Such bills, if approved, are assured of the Governor's signature when they reach that point.

During the month of August of each year, ideas for proposed legislation are required to be submitted to the Division of Financial Management. A meeting is held between the Governor's staff, Division of Financial Management staff and the Chief of the Bureau to review ideas and establish approval to draft legislation.

All proposed legislation must be submitted in legislative format to the Division of Financial Management in October of each year.

After proposed legislation has been submitted to the Division of Financial Management their Analyst reviews the proposals. The proposed legislation is then submitted to the Legislative Council and the Legislative Data Center.

The Legislative Council reviews each proposal and the Legislative Data Center processes the proposal in actual bill format. The proposal is then presented to a designated legislative committee, this presentation is known as a "print hearing" and requires a majority vote to be assigned a Bill number. This number then identifies the Bill as it progresses through the legislative process.

The Bureau's designated contact person, usually the Bureau Chief, will be notified by a committee secretary (House or Senate) to appear before the committee when our proposed legislation is under consideration.

The Division of Financial Management works closely with the Legislative Data Center to keep a tracking system in place during the session. The Bureau may refer to them to locate or track our legislation once it has a bill number.

HOW A BILL BECOMES LAW

For the purposes of this discussion, introduction is considered to have been in the House of Representatives. The differences in the Senate and House procedures are minor.

DEFINITION OF A BILL

A bill is a proposal for the enactment of a new law, the amendment or repeal of an existing one, or the appropriation of public money. There is no other vehicle for the enactment of a law by the Legislature. A bill may originate in either the House or the Senate (with the exception of revenue measures, which must originate in the House of Representatives) and must be passed by both houses of the Legislature on a roll call vote of the members and approved by the Governor, or in the event the Governor vetoes a bill, it must then be passed again by both houses of the Legislature by a two-thirds majority of those present in both houses to become law over the Governor's objection. A bill can also become law without the Governor's approval if it is not returned vetoed by the Governor to the Legislature within five days (Sundays excepted) after presentation to him.

A bill cannot become law until the same has been read on three separate days in each house of the Legislature previous to the final vote on the bill. (In the case of urgency, two-thirds of the members of the house where the bill is pending may vote to dispense with this provision.) Prior to the final passage of any bill, it must be read at length and the vote of ayes and nays upon each bill must be by majority of the members present at the time of the vote.

INTRODUCTION

Either a member or group of members or a standing committee may introduce a bill in the Legislature. In the House of Representatives, after the 20th day of the session, only committees may introduce bills. After the 45th day, only the committees on State Affairs, Appropriations, Revenue and Taxation, and the Ways and Means may introduce bills. In the Senate, after the 12th day of the session, only committees may introduce bills. After the 35th day, only the committees on State Affairs, Finance, and Judiciary and Rules may introduce bills.

After the bill has been drawn in proper form for introduction, the original bill and additional copies in a number prescribed by the Judiciary, Rules and Administration Committee, are presented to the Chief Clerk who assigns the House Bill a number by which it will always be known. The numbered bill is then introduced by being read under the Order of Business -- Introduction and First Reading of Bills. Senate Bills and House Bills passed and received by the other house for action are also placed under the same Orders of Business and receive much the same treatment.

FIRST READING

The Bill is read the first time and is then referred by the Speaker of the House of Representatives to the Judiciary, Rules and Administration Committee. No law can be passed except by bill and no bill can become law without first being printed. After the bill is printed, it is reported back by the Committee as printed and is referred to a standing committee by the Speaker.

REPORTS OF STANDING COMMITTEES

Each committee to which the bill is referred conducts a study which may include research, open or closed hearings, expert testimony, statements of interested parties, and any information which may help the committee judge the scope of the proposed law and determine its effect. A committee that reports out a bill after completing its study may report it out with one of the following recommendations:

1. Do pass
2. Without recommendation
3. To be placed on General Orders for amendment
4. Do not pass (A bill is seldom released by a committee with this recommendation)
5. Withdrawn with the privilege of introducing another bill
6. Be referred to another standing committee

If a committee reports a bill out and does not recommend that the bill be amended or other action to keep it from going to the floor for action at that time, the bill is then placed on Second Reading. Those bills that are not reported out by committees "die in committee." Special rules of the House apply when the committee does not desire to report out a bill for consideration by the entire House.

SECOND READING

When a bill is reported out of committee, it is placed on the Second Reading Calendar and is read again. The following legislative day, the bill is automatically on Third Reading unless other action has been taken on the bill in the meantime.

THIRD READING

The Clerk is required to read the bill in length, section by section, when it is at the Order of Business -- Third Reading of Bills. It is at Third Reading that the bill is ready for debate and the final vote on the passage of the bill is taken at this time. Each bill is sponsored by a member who is known as the "floor sponsor" and who opens and closes debate in favor of passage of the bill. After debate has closed, the members vote on the electric voting machine. Each member present must cast either an "aye" or "nay" vote. A bill is passed by a majority of those present. If the bill fails to pass, the Chief Clerk files it. If the bill is passed, it is transmitted to the Senate where it may go through a similar process.

SENATE ACTION ON HOUSE BILLS

After the final action by the Senate on a House Bill, it is returned to the House with a message explaining the Senate's action. The message is read to the House. If the bill passed the Senate without being amended by the Senate, it is enrolled by the House Judiciary and Rules Committee, signed by the Speaker of the House of Representatives and the President of the Senate and transmitted to the Governor for his action.

GOVERNOR'S ACTION

After receiving a bill passed by both the House and the Senate, the Governor may:

- 1. Approve the bill by signing it within five days after its receipt, Sundays excepted.
- 2. Allow the bill to become a law without his approval by not signing it within the five days allowed.
- 3. Disapprove (veto) the bill within the five days allowed and return the bill to the house of origin, giving his reason for disapproval. (The exception here is that in the event the Legislature has adjourned sine die, the Governor has 10 days to veto a bill.)

In order for a bill to become law after the Governor has vetoed the bill, both houses must override the Governor's veto by a two-thirds vote of the members present.

When the Governor approves a bill, allows it to become law without his approval (signature) or if the Governor's veto is overridden, the bill is transmitted to the Secretary of State, who assigns to it the proper chapter number in the Idaho Sessions Laws and the bill becomes a law.

COMMITTEE OF THE WHOLE

When a printed House or Senate bill is to be changed (amended), it is referred to the Committee of the Whole and placed on General Orders for amendment. At the proper Order of Business, the House resolves itself into the Committee of the Whole House and the entire membership sits as one committee to consider changes to both House and Senate bills.

When a House Bill has been amended by the Committee of the Whole, and the committee's report on the amendment(s) accepted by the House, it is referred to the Engrossing Committee where the amendments are inserted into the bill and the engrossed bill is then referred back on the Calendar, to be considered again. An amended bill is considered a new bill and must receive three readings.

MISCELLANEOUS LEGISLATION

In addition to bills, the Idaho Legislature considers Joint Memorials, Concurrent Resolutions, Joint Resolutions and Simple Resolutions. The following is a short definition of this type of legislation:

JOINT MEMORIAL: A petition usually addressed to the President, the Congress, or some official or department of the United States Government, requesting an action that is within the jurisdiction of the official or body addressed. Essentially, a Joint Memorial is acted upon in the same manner as a bill and must be passed by both houses. It is not, however, signed by the Governor.

JOINT RESOLUTION: A measure having some of the force and effect of a bill, but which differs in two respects: First, Joint Resolutions require approval of two-thirds majority of both houses, and do not have to be signed by the Governor (in all other respects, the parliamentary procedure necessary to adopt a Joint Resolution is the same as it is for bills) and, secondly, they are used only to propose amendments to the State of Idaho Constitution and to ratify amendments to the Federal Constitution.

CONCURRENT RESOLUTION: A measure not having the force of law, and normally used for one of three purposes: To manage and regulate the internal affairs of the Legislature, such as providing for the printing of bills; to express appreciation on the part of the Legislature; and, to direct interim studies by the Legislative Council or by executive agencies. Essentially, a Concurrent Resolution is acted upon in the same manner as a bill.

SIMPLE RESOLUTION: Similar to Concurrent Resolutions. Simple Resolutions are not passed by both houses of the Legislature and are not signed by the Governor. They cover numerous subjects, but do not deal with the passing of laws. They are used primarily to express appreciation of the Legislature to companies, persons, etc., or to make a point on some subject more definite than debate on the floor.

REMEMBER

We are a republic - a government of laws and not of “men.” While individuals serve in various capacities, no official has unlimited power. There is no dictator. The power of each official is limited by the Constitution. The Legislature represents the people in making laws. It has no authority to interpret or enforce them. These powers are reserved to the Judicial and Executive departments.

THE IDAHO LEGISLATURE

THE CHAMBERS

The Idaho State Capitol Building, following the same classical style of architecture as our nation's Capitol, was started in 1905 and the central portion was finished in 1911. The East and West wings, occupied by the Legislature, were finished in 1921. Idaho sandstone was used in facing the outside walls, and Alaskan marble was used on the floors, staircases, and trimmings. The inside walls are Vermont marble.

During 1968, prior to the 40th Session, the Idaho Senate and House of Representatives underwent extensive remodeling for the first time since 1921. The chambers were enclosed with walls, new desks were installed on risers, and carpeting was added. New spectator seating was built in the balcony. Modern acoustics, public address systems, lighting, and ventilation were also installed. These changes were part of a long-range plan for a complete renovation of the third and fourth floors. Plans included the adding of a central message center, a lounge for the members, and the remodeling of the committee meeting rooms and the offices occupied by the employees of the Legislature. This phase of the remodeling was completed during 1970.

By tradition, in the House of Representatives, the Republicans occupy the right side of the chambers facing the podium and the Democrats the left side. In the Senate, whichever party is in the Majority occupies the left side facing the podium, and the party in the Minority occupies the right side.

THE MEMBERSHIP

The Idaho Legislature is composed of 42 Senators and 84 Representatives elected for two-year terms. The state is divided into 35 legislative districts. Nineteen single-member districts elect one senator and two representatives each; six multi-member districts elect two or more senators and four or more representatives each; and

seven floatorial districts, consisting of three or more single and multi-member districts, elect one senator and two representatives each.

Elections are held in November of even-numbered years, and the newly elected legislators officially take office December 1 following the election. Representatives and senators must be citizens of the United States, electors of the state, and residents of their legislative district for at least one year prior to election.

THE SESSIONS

Until 1969, sessions of the Idaho Legislature were held every two years. In November of 1968, the citizens of Idaho approved a Constitutional Amendment that authorized annual sessions. Since 1969, the Idaho Legislature convenes each January. Only the Governor may call extraordinary sessions of the Legislature by proclamation, and legislators may then act only upon those subjects specified in the proclamation. Extraordinary sessions are limited by the Constitution to 20 days per session.

THE OFFICERS

The Lieutenant Governor, who is not a member of the Senate but an elected official, presides over the Senate. While presiding, he is designated the President of the Senate. The Senate also has a President Pro Tempore, who is elected each session by the Senate membership. In the House of Representatives, the Speaker of the House presides over the sessions. He is a member of the Majority Party elected at the beginning of the session by the members.

The Majority Party of both houses also select Majority and Assistant Majority Floor Leaders. They assist in the orderly process of the sessions, along with the Minority and Assistant Minority Floor Leaders, who are selected by the members of the Minority Party. The Speaker of the House, in cooperation with the members of the Majority Party, assigns the chairmanships of all committees and the memberships of the committees in the House. In the Senate, the Lieutenant Governor, with the approval of the Senate, assigns members to committees. The President of the Senate

and the Speaker of the House assign all bills to committees as they are processed "across the desk" during the sessions.

THE LEGISLATURE AT WORK

Each daily session of each house of the Legislature begins with the roll call of the members and a prayer by the Chaplain, who is selected by the members the first day of the session. Traditionally, the sessions begin at 10:00 a.m. each morning and last until all immediate business to be considered is finished. In the early morning and late afternoon, committee meetings are scheduled to prevent any conflict with the sessions. Late in the session, late afternoon and evening sessions are common. The sessions held at the beginning of the year are of a shorter duration, as bills are being drafted and considered by committees.

Some of the activity on the floor is necessary daily routine. For this reason, at times, members will be away from their desks. Some may be in caucuses, which are informal meetings of the members of one political party, or perhaps testifying for their own bills before Senate or House committees. Others may be involved in hurried conferences with other members, or be seeing constituents or groups from their home districts who are visiting the Capitol. Some of the informal conferences on controversial issues will occur on the floor itself.

Press, radio and television correspondents assigned to the Legislature have been allocated desks along the sides of the podium of the chamber floor so they can follow closely the session business. The media quarters are now located in the basement of the Capitol Building, west wing.

THE COMMITTEE STRUCTURE

Committee membership is determined basically by the interest of the individual members. Although no one member can be expected to be expert in all fields, the vast majority of them, through training or inclination, are highly conversant in certain areas. Effort is made to see that each member is assigned the committee of his choice. When appointments of committee chairmanships are made, it is customary to appoint a member of the Majority Party as chairman.

Once the legislative session gets underway, the committees concern themselves with all bills assigned to them. Those interested in a particular bill are encouraged to testify before the committee to which the bill is assigned. It is a fact that committee study guarantees each bill a fair and impartial hearing before committee members vote upon its merits and determine whether or not it should be sent out to the Senate or House for whole consideration. Much of the decision-making and evaluation of bills, or proposed laws, is done by committees. Usually, therefore, the respective house will follow the recommendations of its committees. However, the members who support or oppose bills will often speak on controversial measures in an attempt to influence the final vote by the entire House or Senate. The House of Representatives has 14 committees and the Senate has 10.

THE VOTING

The members are seated at desks facing the Speaker or President. Their desks have microphones to be used when addressing the session. When a member wishes to address the house, he requests recognition from the presiding officer. The members of the House of Representatives vote through electric scoreboards at the sides of the chamber. By punching a button on their desk, they indicate "yes" or "no" votes through the lighting up of a green or red bulb alongside their names on the Boards. These votes are automatically totaled. A permanent punch card record also is made of the vote. The presiding officer announces the vote after the machine has recorded the same.

A majority vote in the House is 51% of the 84 members present. In the Senate, a majority vote is 51% of the 42 senators present. There is an exception to this rule which applies in certain issues when a two-thirds majority is required. In the Senate, voting is done by voice vote and recorded on a tally sheet by the Secretary of the Senate.

THE STAFF

The staff at the desks just below the Speaker and the President process all bills and resolutions through the Legislature. The Secretary of the Senate and the Chief Clerk of the House represent the expert ingredient in the administration of the legislative process. Directly responsible to the presiding officers, they are in charge of keeping a record of all business transacted during the session. They are responsible for the distribution of all printed bills and in charge of all documents for the session. They read "across the desk" the bills, etc., as they are processed.

The Idaho Legislature employs approximately 70 or 80 people for a session who fill various positions including the Sergeant-at-Arms, who is charged with keeping order during sessions, journal clerks, docket clerks, pages, messengers, secretaries, committee clerks, attorneys and doorkeepers.

PUBLICATIONS

Three publications are printed daily by the Legislature. The Senate and House Journals give a chronological account of the daily proceedings, including the roll call vote upon all actions that require a recorded vote. The Journals are printed during the night and distributed to members before each session in the morning. The Mini-Data, published daily except Friday and available before the session begins each morning, lists House and Senate bills in numerical order, gives an abbreviated description and the previous day's action on each bill. The Daily Data is published weekly, on Monday, lists all bills and resolutions in numerical order, gives more detailed descriptive information, the author of the bill and recaps all action on that bill,

including roll call votes. Each house of the Legislature prints and distributes all bills, resolutions, and memorials introduced the previous legislative day. Copies of these publications and all bills, resolutions and memorials are available from the Legislative Public Information Center.

THE LEGISLATIVE COUNCIL

The Idaho Legislative Council, established by the 1963 Legislature, is a permanent agency of the legislative branch of state government, whose basic purpose is to consider problems of major state import between sessions of the Legislature. The Council consists of the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of each house, four senators appointed by the parties of the Senate, two from each party, and four representatives chosen in caucus by the parties of the House of Representatives, two from each party.

The work of the Council is done by committees and by a research staff. The staff serves the Council, its committees and individual legislators in an impartial, objective, fact-finding capacity. Normally, the staff consists of a director, research analysts, legal analysts and secretaries. The Council Office is housed in the basement of the Capitol Building, east wing, together with the Offices of the Legislative Auditor and the Legislative Data Center.

A BOARD'S SELF-ASSESSMENT CHECKLIST

Is your Board protecting, promoting, and responding to the public interest? Here's a checklist of some important indicators that can help you answer:

1. Is there a need for regulation?
 - When and why did regulation of the profession begin?
 - Does the need still exist?
 - Are the rules and regulations promulgated by the Board consistent with the statutes?
 - Are implementation guidelines, procedures, etc. consistent with the rules and regulations?
2. Does my Board promote and protect the public interest?
 - Are there contacts with consumer groups?
 - Are there mechanisms to provide consumer input into decision-making?
 - Are due process protections provided to applicants, licensees, and the public?
 - Is my Board making itself known to, and open to, the public? Do any non-Board members attend meetings? Who are they?
 - How are Board meetings, activities, and decisions publicized?
 - Are there minutes of all meetings? How are they circulated or made available outside the Board? When are they circulated?
3. Is the Board involved in consumer education?
 - Are consumers informed of their rights?
 - Are consumers informed of where they can go for help when their rights have been violated?
4. Does my Board provide protection against deceptive practices, negligence, and incompetence?
 - Are consumers informed of the types of unlawful or unethical practices that can occur?
 - Are records of complaints kept to indicate patterns of abuse?
 - What actions does my Board take to discipline licensees, e.g., revoking licenses?
5. Does my Board engage in practices that limit competition?
 - Does the licensing process restrict entry into the profession?
 - Is there an advertising ban that may prohibit licensees from competing?
 - Are minimum or suggested fee schedules established?
 - Are there any other unnecessary or unjustified restrictions?

6. How effective are the program functions of my Board?
 - Are these functions desirable or necessary (testing, licensing, complaint handling, holding hearings, rulemaking)?
 - Is the Board working to maintain high standards within the licensed profession?
 - Is the Board able to show what it has done about complaints received from the public?

7. Is my Board operating efficiently?
 - Is the interaction and sharing of responsibilities between the Board and the appropriate agencies optimally divided and carried out?
 - Are activities of the Board itself being run in the most efficient manner?
 - Do meetings start on time?
 - Do members consistently get to meetings on time?
 - Do members consistently attend, and notify the chairperson when they are not coming or will be late?
 - What is an operating quorum?
 - Are minutes of the previous meeting mailed promptly.
 - Is much time spent in routine administrative items that should be taken care of by staff?
 - Is correspondence summarized or read word for word?
 - Are responses to applicant letters (including the standard reply explaining the procedure for licensing) helpful, relevant, and written in simple language that really gives the needed information and guidance?
 - Do meetings operate on an agenda, and do all members know what the agenda is?
 - Do people leave before the meeting is over?
 - Do meetings run too long? Could there be time limits set for items?
 - Is the Board meeting at a time most convenient for the members?
 - Could the meeting time be changed?
 - Does the Board need to meet more often? Less often?